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EXAMINER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte COLIN ANDREW LOW,
RYCHARDE JEFFERY HAWKES, and
LAWRENCE WILCOCK

Appeal 2009-006261
Application 09/977,497¹
Technology Center 2400

Decided: June 10, 2010

Before JOHN A. JEFFERY, JEAN R. HOMERE, and JAMES R. HUGHES,
Administrative Patent Judges.

HOMERE, *Administrative Patent Judge.*

DECISION ON APPEAL

¹ Filed on October 16, 2001. This application claims foreign priority to 0025458.1, filed October 17, 2000. The real party in interest is Siemens Buildings Technologies, Inc. (App. Br. 4.)

I. STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) (2002) from the Examiner's final rejection of claims 1 through 20. (Supp. App. Br. 4.)² Claim 21 has been cancelled. (*Id.*) We have jurisdiction under 35 U.S.C. § 6(b) (2008).

We affirm.

Appellants' Invention

Appellants invented a method and system for enabling a customer service representative to join a communication session established over the Internet between parties that are co-browsing a particular website. (Spec. 1, ll. 7-9.)

Illustrative Claim

Independent claim 1 further illustrates the invention as follows:

1. A method of inviting an assistant entity into an existing communication session established by a service system with an associated transport mechanism for the exchange of data across a network between endpoint entities joined to the session comprising the steps of:

(a) selecting, by the service system, an appropriate assistant entity from a group of assistant entities taking account of context data concerning an existing session responsive to receipt of a request from a first endpoint entity, where the first endpoint entity is already joined to the session, and constituted by a party having an endpoint system connected to the network, to the service system requesting the presence of an assistant entity in the session, the request directly or indirectly indicating the identity of the existing session; and

(b) joining the selected assistant entity to the existing sessions.

² See the Supplemental Appeal Brief filed on October 9, 2007.

Prior Art Relied Upon

The Examiner relies on the following prior art as evidence of unpatentability:

Brown	6,385,646 B1	May 7, 2002
Owen	6,611,501 B1	Aug. 26, 2003

Rejections on Appeal

The Examiner rejects the claims on appeal as follows:

Claims 1 through 3, 7 through 10, 12 through 15, and 17 through 19 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Owen.³

Claims 4 through 6, 11, 16, and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Owen and Brown.

Appellants' Contentions

Appellants contend that the Examiner fails to identify how Owen anticipates each element of independent claim 1. (App. Br. 11;⁴ Reply Br. 4.) Appellants argue that Owen's disclosure of a User Agent Manager ("UAM") that performs user validation, including sending a message to a user agent via a customer object, does not teach selecting an appropriate assistant entity based on context data concerning an existing session. (App. Br. 12.) Appellants also argue that Owen's disclosure of a user agent does not teach an "assistant entity," as recited in independent claim 1. (App. Br. 12-13; Reply Br. 6-7.) Further, Appellants allege that Owen's disclosure of

³ Although the Examiner omits claims 17 through 19 in the statement of the 35 U.S.C. § 102(e) rejection (Ans. 4), the Examiner nonetheless includes these claims in the corresponding text of the rejection (Ans. 4-5). We therefore presume that the Examiner intended to reject claims 17 through 19 under 35 U.S.C. § 102(e).

⁴ Hereinafter all references to the Appeal Brief are to the Appeal Brief filed on February 22, 2007.

establishing a communication session does not teach “an existing session,” as recited in independent claim 1. (App. Br. 13; Reply Br. 6.) Additionally, Appellants contend that since Owen fails to disclose an existing communication session, it cannot teach “joining the selected assistant entity to the existing session,” as recited in independent claim 1. (App. Br. 13.)

Examiner’s Findings and Conclusions

The Examiner finds that Owen’s disclosure of a UAM sending a message to a relevant user agent via a customer object, thereby creating a term session, teaches that the UAM takes into account the context data of an existing session, as claimed. (Ans. 12.) The Examiner also finds that Owen’s preceding disclosure teaches that the UAM selects the “appropriate assistant entity,” as claimed. (*Id.* at 13.) Further, the Examiner finds that Appellants’ Specification defines an “assistant entity” as a customer service representative and associate endpoint system, or a software automaton. (*Id.*) Consequently, the Examiner finds that Owen’s user agent performs the same functions as the claimed “assistant entity.” (*Id.*) Additionally, the Examiner finds that Owen’s disclosure of a user agent joining an existing service session teaches an assistant entity joining an existing session. (*Id.* at 14.)

II. ISSUE

Have Appellants shown that the Examiner erred in finding that Owen anticipates independent claim 1? In particular, the issue turns on whether Owen teaches:

(a) “selecting, by the service system, an appropriate assistant entity...taking account of context data concerning an existing session...,” as recited in independent claim 1; and

(b) “joining the selected assistant entity to the existing sessions,” as recited in independent claim 1.

III. FINDINGS OF FACT

The following Findings of Fact (“FF”) are shown by a preponderance of the evidence.

Owen

1. Owen generally relates to process management systems and, in particular, to services over a communication network that references feature interaction. (Col. 1, ll. 6-9.)

2. Owen’s Figure 3 depicts the hardware utilized to implement Owen’s process management system. (Col. 7, ll. 18-19.) In particular, Owen discloses a user agent (107) that represents and acts on behalf of a user. (Col. 12, l. 4.) A user agent (107) “receives requests from users to establish service sessions, or to join existing service sessions, and creates or negotiates with existing service session as appropriate.” (*Id.* at ll. 5-7.) Additionally, “[a] user agent (107) also receives and processes requests to join a service session from the service sessions themselves.” (*Id.* at ll. 9-11.) Further, Owen discloses that users must associate their user agents (107) with Terminal Agents (102) in order to access a service. (*Id.* at ll. 21-22.)

3. Owen discloses the process of a user logging into the process management system and attempting to make a call. (Col. 26, ll. 63-64; col. 27, ll. 1-2.) In particular, Owen discloses that when a user requests to log into the system, the Terminal Agent passes the request to the UAM, and the UAM sends the request message to the relevant user agent via its customer object. (Col. 27, ll. 9-12.) Further, Owen discloses that the Terminal Agent

that sent the request message identifies a Term-session object, and the corresponding customer object creates the Term-session object. (*Id.* at ll. 13-15.)

IV. ANALYSIS

35 U.S.C. § 102(e) Rejection

Claim 1

Independent claim 1 recites, in relevant part, 1) “selecting, by the service system, an appropriate assistant entity...taking account of context data concerning an existing session...;” and 2) “joining the selected assistant entity to the existing sessions.”

As detailed in the Findings of Fact section, Owen discloses a process management system that provides interactive services over a communication network. (FF 1.) Owen discloses that a user agent may act on behalf of a user and, in particular, negotiates to join an existing service session based on a user’s request. (FF 2.) Further, Owen discloses that users must associate a user agent with a terminal agent in order to access a specific service. (*Id.*) Additionally, Owen discloses that when a user logs into the process management system, a terminal agent passes a user request to the relevant user agent through the UAM utilizing a customer object. (FF 3.) Subsequently, the terminal agent identifies a term-session and the corresponding customer object creates the term-session. (*Id.*)

We find that Owen’s disclosure teaches that the UAM selects a terminal agent based on a user’s initial service request, associates the terminal agent with a user agent that provides the requested service, and allows the user agent to join an existing communication session. In

particular, we find that the UAM utilizes the information provided by the user in the initial service request to both select a user agent that provides the requested service, and to identify an existing communication session for the user agent to join. Thus, we find that Owen teaches the disputed limitations as set forth above.

We are not persuaded by Appellants' argument that the Examiner fails to identify how Owen anticipates each element of independent claim 1. (App. Br. 11, Reply Br. 4.) In particular, we find the scope of independent claim 17 to be narrower than the scope of independent claim 1. Further, we note that the Examiner's discussion of independent claim 17 seems to encompass independent claim 1. (Fin. Rej. 3-4; *see also* Ans. 4-5.) Additionally, as discussed above, Appellants fail to identify how Owen's disclosure does not anticipate each element of independent claim 1. Therefore, we find that Appellants' argument is unsubstantiated. It follows that Appellants have not shown that the Examiner erred in finding that Owen anticipates independent claim 1.

Claims 2, 3, 7 through 10, 12 through 15, and 17 through 19

Appellants do not provide separate arguments for patentability with respect to independent claim 17, and dependent claims 2, 3, 7 through 10, 12 through 15, 18, and 19. Therefore, we select independent claim 1 as representative of the cited claims. Consequently, Appellants have not shown error in the Examiner's rejection of independent claim 17, and dependent claims 2, 3, 7 through 10, 12 through 15, 18, and 19, for the reasons set forth in our discussion of independent claim 1. *See* 37 C.F.R. § 41.37(c)(1)(vii) (2009).

35 U.S.C. § 103(a) Rejection
Claims 4 through 6, 11, 16, and 20

Appellants offer the same arguments set forth in response to the anticipation rejection of independent claims 1 and 17, respectively, to rebut the obviousness rejection of dependent claims 4 through 6, 11, 16, and 20. (App. Br. 19-20.) We have already addressed these arguments in our discussion of independent claim 1, and we found them unpersuasive. Consequently, Appellants have not shown that the Examiner erred in concluding that dependent claims 4 through 6, 11, 16, and 20 are unpatentable over the combination of Owen and Brown.

V. CONCLUSIONS OF LAW

1. Appellants have not shown that the Examiner erred in rejecting claims 1 through 3, 7 through 10, 12 through 15, and 17 through 19 as being anticipated under 35 U.S.C. § 102(e).
2. Appellants have not shown that the Examiner erred in rejecting claims 4 through 6, 11, 16, and 20 as being unpatentable under 35 U.S.C. § 103(a).

VII. DECISION

1. We affirm the Examiner's decision to reject claims 1 through 3, 7 through 10, 12 through 15, and 17 through 19 as being anticipated under 35 U.S.C. § 102(e).
2. We affirm the Examiner's decision to reject claims 4 through 6, 11, 16, and 20 as being unpatentable under 35 U.S.C. § 103(a).

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED

Vsh

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